

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 217 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME TAX

Versus

TALINI INVESTMENT PVT. LTD.

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Appearance:

MR MANISH R BHATT for Petitioner  
MR KC PATEL for Respondent No. 1

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE A.L.DAVE

Date of decision: 30/08/1999

ORAL JUDGEMENT

1. We have heard the learned counsel for the parties.

2. In this matter, Rule is already issued on 11th August, 1999 and it is made returnable today.

3. The application is filed by the Revenue for a direction to the Tribunal to refer the following questions for the opinion of this Court :-

"1. Whether the Income Tax Appellate Tribunal is right in law and on facts in holding that interest on debenture should be taxed only under the head and the "interest on securities" and not interest accrued on debentures on cash basis?

2. Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to compute interest under Section 215/216 after giving effect to the above directions?

4. At the time of hearing, it was stated at the Bar that in almost similar circumstance, a Division Bench of this Court, in I.T.A. No.10 of 1999 and companion matters, decided on 28th April, 1999, allowed the applications by making the Rule absolute. The questions were, however, reframed as under :-

"1. Whether in the facts and circumstances of the case, the Appellate Tribunal is right in law that the interest on debentures issued by companies other than local authority, company or corporation established by a Central, State or Provincial Act is not liable to be computed as income under the head 'interest on securities'.

2. Whether interest on debentures in all circumstances is liable to be considered income only when received by the assessee and not when it has been due."

5. Following the above decision of this Court, we also allow the application by directing the Tribunal to send the record for opinion of this Court in respect of following two questions:-

1. Whether in the facts and circumstances of the case, the Appellate Tribunal is right in law that the interest on debentures issued by companies other than local authority, company or corporation established by a Central, State or Provincial Act is not liable to be computed as income under the head 'interest on securities'.

2. Whether interest on debentures in all circumstances is liable to be considered income only when received by the assessee and not when

it has been due.

6. Accordingly, this application stands disposed of.

In the facts and circumstances of the case, no order as to costs.

[ C.K. THAKKAR, J. ]

[ A.L. DAVE, J. ]

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